



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** G.K.S. Inc.

**File:** B-235208

**Date:** August 9, 1989

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### **DIGEST**

1. An agency may cancel a negotiated procurement based on the potential for increased competition or cost savings.
2. Claim for proposal preparation and protest costs is denied where cancellation of solicitation was proper.

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### **DECISION**

G.K.S. Inc. protests the Air Force's cancellation of request for proposals (RFP) No. F41608-88-R-5660 for transducers for jet engines and the agency's resolicitation of the requirement under RFP No. F41608-89-R-2640. G.K.S. alleges that the new solicitation is substantially the same as the original and therefore the cancellation of the original solicitation was improper. It also claims its proposal preparation and protest costs.

We deny the protest and the claim.

The San Antonio Air Logistics Center issued RFP No. F41608-88-R-5660 on May 17, 1988, for 532 transducers PS3, applicable to the General Electric TF34-100A engine in support of the A-10 aircraft. This item transduces compressor air pressure into an electrical signal. The solicitation was limited to approved sources and in the schedule identified the item by two part numbers, one attributed to Schaevitz Engineering, the other to G.E. or G.K.S. The parties agree, however, that of these three firms, only Schaevitz manufactured the part: G.E., the prime contractor for the aircraft engine, would supply a Schaevitz-manufactured part as would G.K.S., a distributor. Two proposals, one from Schaevitz, and one from G.K.S., were received by the closing date.

The contracting officer subsequently learned that G.K.S., a non-manufacturing source, did not currently have the transducers on hand (such as surplus) but was buying them from Schaevitz. The contracting officer was concerned that the two offerors may not have arrived at their prices independently and that price competition did not exist. The agency requested additional information to clarify any interrelationship between the two sources. Because the contracting officer believed competition did not exist, other pricing procedures, including a Defense Contract Administration Services Management Area (DCASMA) field review and a Defense Contract Audit Agency (DCAA) audit on G.K.S., were initiated. Due to problems of verifying more than half of G.K.S.'s subcontractor's proposed costs, the DCAA issued a qualified report on the G.K.S. proposal in which DCAA advised the contracting officer of the items and types of documentation necessary to support the subcontractor costs. The report indicated that the pricing data submitted by G.K.S. was not adequate and that the proposal was not "acceptable as a basis for negotiation of a fair and reasonable price."

On March 8, 1989, before negotiations had been completed, an additional firm, Gulton Industries, Inc., was identified by the Air Force as an approved source for the item. The contracting officer then decided to cancel the solicitation and resolicit.

The protester argues that the solicitation should not have been canceled because the new solicitation is not substantially different from the original. G.K.S. argues that an agency cannot cancel a RFP solely for the purpose of allowing another party to have an opportunity to participate in a resolicitation with identical requirements. Further, G.K.S. alleges that there was a fair and reasonable price available under the original RFP since its proposed price was less than prices paid by the government in the previous 3 years and was 30 percent less than the government's estimated unit price. G.K.S. also says there was competition under the original RFP because three sources of supply were identified in the RFP and two of these sources submitted offers. Further, G.K.S. states the agency was fully aware of the relationship between G.K.S. and Schaevitz and had awarded three contracts for the transducers to one or the other of the firms since 1985. G.K.S. also argues that it had ordered the transducers on July 15, 1988, and deliveries had been commenced prior to the contracting officer's assertion that G.K.S. did not have the transducer "on hand." The protester argues that the circumstances for the instant procurement are identical to previous buys where the agency determined there was competition.

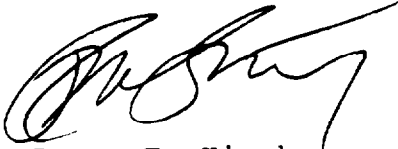
In a negotiated procurement, such as this, the contracting officer has broad discretion in deciding whether to cancel a solicitation. The contracting officer need only have a reasonable basis to do so, as opposed to the cogent and compelling reason required for the cancellation of a solicitation after sealed bids have been opened. Shiloh Forestry, B-230582, June 21, 1988, 88-1 CPD ¶ 591.

Here, the Air Force, based on a DCAA report, could not determine if the G.K.S. proposal represented a fair and reasonable price, nor could it be certain that competition existed between the two offerors. Moreover, while the DCAA compiled its report and the agency tried to obtain the necessary documentation to support G.K.S.'s prices, another source for the item was approved. Under Federal Acquisition Regulation (FAR) § 15.608(b)(4), the procuring agency may reject all proposals where cancellation of the solicitation is clearly in the government's best interest. Pursuant to this regulation, a procuring agency may cancel a negotiated procurement based on the potential for increased competition or cost savings. Bell Indus., Inc., B-233029, Jan. 25, 1989, 89-1 CPD ¶ 81; Gradwell Co., Inc., B-230986, July 7, 1988, 88-2 CPD ¶ 19; Dohrman Mach. Prod., Inc., B-223307, Aug. 25, 1986, 86-2 CPD ¶ 221. Thus, once the Air Force learned of the possibility of increased competition and cost savings because Gulton was now an approved source, it properly could cancel the RFP and resolicit for the requirement. Bell Indus., Inc., B-233029, supra. Thus, while the Air Force may not have been required to cancel, we find that the Air Force did act reasonably under these circumstances in canceling the RFP.

We interpret G.K.S.' statement in its comments that "the solicitation was cancelled due to the existence of a specific company - Gulton" to constitute an allegation of bad faith on the part of the contracting officer. There must be very strong proof that an agency has a malicious and specific intent to injure a protester before we may find bad faith. J. Carver Enters., B-227359, Sept. 3, 1987, 87-2 CPD ¶ 220. In this protest, G.K.S. has offered little more than speculative comments suggesting that Air Force personnel have exercised bad faith. Therefore, there is no basis for finding this aspect of the protest meritorious.

The protest is denied.

G.K.S. requests reimbursement of its proposal preparation and protest costs. There is no basis for allowing recovery of such costs, however, where, as here, there is no indication that the agency acted improperly. Systems-Analytics Group, B-233051, Jan. 23, 1989, 89-1 CPD ¶ 57.



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*for*